

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATE OF AMERICA, Plaintiff, vs. RAFAEL DELGADO-MORALES, Defendant.	MEMORANDUM DECISION AND ORDER DENYING, WITHOUT PREJUDICE, DEFENDANT’S MOTION FOR RETURN OF PROPERTY Criminal Case No. 2:01-CR-710 TS
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Defendant moves¹ the Court to return his property, which he alleges was seized as evidence in this case. The property includes a men’s suit jacket, a pair of eyeglasses, a wrist watch, and \$17,190 in United States Currency.

The government responds that the property was seized and then forfeited administratively by the order of the Drug Enforcement Agency (“DEA”) dated November 6, 2002. The

¹ Defendant filed *Motion for Return of Property, Not Subject to Criminal Forfeiture* (Docket No. 123) and *Motion to Compel Plaintiff To Return Property Not Subject to Criminal Forfeiture* (Docket No. 124). The Court construes these motions collectively as one motion for return of property.

government argues that because the forfeiture was not obtained pursuant to Defendant's criminal indictment, the proper action to recover the property would be to file a civil action against the DEA.


The Court agrees with the government that the proper course to seek remedy is in a civil action against the DEA. Based upon the above, it is hereby

ORDERED that the Defendant's Motion for Return of Property (Docket Nos. 123 and 124) is DENIED, without prejudice to refiling of Defendant's request in a civil action.

SO ORDERED.

DATED this 10th day of April, 2006.

BY THE COURT:



TED STEWART
United States District Judge